

REMARKS

Claims 1 – 14 are in the application. Claims 1, 4, 7, 10, 12, and 14 were previously presented; and claims 2, 3, 5, 6, 8 – 11, and 13 remain unchanged from the original versions thereof. Claims 1, 10, 12, and 14 are the independent claims herein.

No new matter has been added to the application. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1 – 9 and 12 – 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Statement of Financial Accounting Standards No. 133, accounting for derivative instruments and hedging activities by Edmund L. Jenkins (hereinafter, Jenkins Nov, 1998. Vol. 186, Iss. 5; 12 pages) in view of Wallman, U.S. Patent No. 6,360,210. This rejection is respectfully traversed.

Applicant respectfully submits that the cited and relied upon Jenkins is the Statement of Financial Accounting Standards No. 133 (SFAS 133). As such, Jenkins is written to serve as a standard or guiding document for the accounting of derivative instruments and hedging activities. Various terms and principles having specific meanings within the financial industry, as especially related to derivatives and hedging instruments, have specific meanings within Jenkins.

Applicant notes that the Office cites and relies upon Jenkins for disclosing “a hedge accounting method implemented by a programmed computer system for reducing periodic earnings volatility associated with a hedged exposure, the method comprising: processing data and instructions on the computer to account for a financial exposure of an associated hedging instrument by designating for accounting purposes a portion (“i.e., percentage”) of the value of the financial exposure as being hedged by the hedging instrument, (see page 9-12 of paragraph 18-22) the designated portion being based on a delta (“i.e., relationship between option price and underlying futures contract

or stock price”) of the hedging instrument representing a price sensitivity of the financial exposure with respect to changes in market value (“i.e., fair value”) of an underlying instrument (see page 9-12 of paragraph 18-22); and in each of a plurality of sequential periods (“i.e., future periods “see page 16 paragraph 31”) and for accounting purposes of the portion of the financial exposure being hedged by the hedging instrument based the delta of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction.”

However, the Final Office Action (FOA) correctly notes (i.e., admits) that “Jenkins fail[s] to explicitly teach re[-]designation”. Applicant respectfully submits that not only does Jenkins fail to *explicitly* but Jenkins also fails to even suggest the claimed re-designation.

Applicant respectfully submits that the rejection of claim 1 is not obvious under 35 USC in view of Jenkins and Wallman as a matter of fact since the cited and relied upon references fail to disclose or suggest that which they are cited and relied upon for disclosing/suggesting, let alone that which is claimed by Applicant.

Regarding the alleged disclosure of Wallman, Applicant respectfully submits that the cited and relied upon “dynamic processing of data on the computer” of Wallman (FOA, page 3, paragraph 3) does not disclose or even suggest the claimed dynamic re-designation, for accounting purposes, of the portion of the financial exposure being hedged by the hedging instrument based on changes to the delta of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction. Applicant respectfully submits that Wallman, at most, discloses using a processor to determine a desired level of market risk protection for a portfolio. Applicant respectfully submits that Wallman does not even relate to a designation or more relevantly to a re-designation of the portion of the financial exposure being hedged by the hedging instrument based on changes to the delta of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction, dynamic or otherwise. Instead, Wallman relates to limiting a market risk of a portfolio against a catastrophic

loss in value. (Wallman, col. 6, ln. 9 – 52) The alledged “dynamic processing” of Wallman is not the same as or suggestive of the claimed dynamic re-designation”.

Applicant respectfully submits that the asserted combination of Jenkins and Wallman fails to overcome the insufficient disclosure of Jenkins. That is, even if Jenkins were combined with Wallman as asserted by the Office Action (not admitted as feasible by Applicant), the combination fails to render the claim 1 obvious under 35 USC 103(a) for at least the reasons discussed in detail above. Again, Jenkins fails to disclose or suggest that for which it is cited and relied upon for disclosing and there is no support for the obviousness conclusions argued in the Office Action.

As disclosed in Applicant’s Specification, and neither Jenkins nor Wallman, the claimed invention reduces or removes undesirable quarterly earnings volatility sides effects associated with certain hedging transactions by appropriately designating and re-designating the portion of the underlying exposure being hedged. (See Specification, page 9, lines 3 – 12)

Claims 2 – 9 depend from claim 1. The Office Action rejected claims 12 - 14 on the same basis and rationale provided regarding claim 1. Claims 10, 12, and 14 are, in relevant part, similar to claim 1. Accordingly, Applicant respectfully submits that claims 1 – 9 and 12 – 14 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a).

Claims 10 and 11 were also rejected as being unpatentable over Jenkins in view of Wallman. This rejection is traversed.

Applicant respectfully submits that claims 10 and 11 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a) for at least reasons similar to those provided regarding claim 1.

Thus, it is clear that the reasoning provided by Applicant hereinabove regarding claim 1 is applicable and sufficient to rebut the rejection of claims 10 and 11.

Accordingly, Applicant respectfully submits that claims 10 and 11 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a).

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date

/Randolph P. Calhoun/
Randolph P. Calhoun
Registration No. 45,371
Buckley, Maschoff & Talwalkar LLC
50 Locust Avenue
New Canaan, CT 06840
(203) 972-5985